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161

PTO/SB/21 (09-04)  
Approved for use through 07/31/2006, OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	09/193989
Filing Date	11/18/1998
First Named Inventor	Rexroad, John
Art Unit	1771
Examiner Name	Lynda Salvatore
Attorney Docket Number	PHLV0736-036

### ENCLOSURES (Check all that apply)

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Fee Transmittal Form<br><input type="checkbox"/> Fee Attached<br><input type="checkbox"/> Amendment/Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Reply to Missing Parts/<br>Incomplete Application<br><input type="checkbox"/> Reply to Missing Parts<br>under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><input checked="" type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a<br>Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation<br>Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____<br><input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC<br><input type="checkbox"/> Appeal Communication to Board<br>of Appeals and Interferences<br><input type="checkbox"/> Appeal Communication to TC<br>(Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input checked="" type="checkbox"/> Other Enclosure(s) (please identify<br>below):<br>Copies of previously submitted Office Action<br>response, previously submitted Petition to<br>Withdraw Holding of Abandonment, and<br>return postcard. |
|--|---|--|

#### Remarks

Attached is a Petition to Withdraw Holding of Abandonment

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Ellis & Venable, P.C.		
Signature			
Printed name	Lance C. Venable		
Date	12/20/04	Reg. No.	41,362

### CERTIFICATE OF TRANSMISSION/MAILING

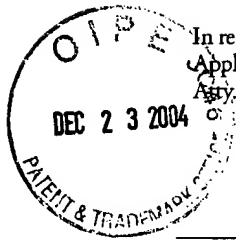
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	Yvonne Venable	Date	12-20-04

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

BEST AVAILABLE COPY



In re Application of: Rexroad, John  
Application No.: 09/193,989  
Atty. Docket No.: PHLV0736-036

Art Group: 1771  
Examiner: L. Salvatore

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Rexroad, John  
Serial No.: 09/193,989  
Filed: 11/18/1998

Art Group: 1771  
Examiner: Salvatore, Lynda  
Atty. Docket No.:  
PHLV0736-036

For: Shrinking Net and System

Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Petition to Withdraw Holding of Abandonment**

Dear Examiner:

Responsive to the Notice of Abandonment of 12/17/2003, the Applicant again respectfully requests that the Examiner withdraw the holding of abandonment based on the following:

**REMARKS**

On 12/17/2003, a Notice of Abandonment was mailed and indicated that no reply to the Office Action of 5/6/2003 had been received by the USPTO. However, Applicant did respond to the Office Action of 5/6/2003 within the six month statutory time limit. As evidence of the timely submission of the response to the Office Action, Applicant provides a copy of the postcard with the USPTO mailroom stamp, a copy of the Office Action response, and a copy of the signed Certificate of Mailing attached to the Office Action response.

This is the second petition to withdraw holding of abandonment submitted by Applicant. The first petition was mailed on January 5, 2004. A copy of the first petition to withdraw holding of abandonment is attached with the signed Certificate of Mailing attached.

*Conclusion*

For the reasons stated above, Applicant respectfully requests that the Examiner withdraw the holding of abandonment and reinstate the application for examination.

Respectfully submitted,

Date: 12/20/04



Lance C. Venable, Reg. No. 41,362  
Ellis & Venable  
Attorneys for Applicant  
101 North First Avenue, Suite 1875  
Phoenix, Arizona 85003  
(602) 631-9100

CERTIFICATE OF MAILING

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

on 12-20-04

By: 



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<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>	Application Number	09/193989	
	Filing Date	Nov 18, 1998	
	First Named Inventor	Rexroad, John	
	Art Unit	1771	
	Examiner Name	Lynda Salvatore	
Total Number of Pages in This Submission		Attorney Docket Number	736-036

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
<b>Remarks</b> Attached is a Petition to Withdraw Holding of Abandonment		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Lance C. Venable
Signature	
Date	January 5, 2004

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.P. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Type or printed			
Signature		Date	January 5, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

In re Application of: Rexroad,  
Application No.: 09/193,989  
Atty. Docket No.: PHLV0736-036

Art Group: 1771  
Examiner: L. Salvatore



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Rexroad, John  
Serial No.: 09/193,989  
Filed: 11/18/1998

Art Group: 1771  
Examiner: Salvatore, Lynda  
Atty. Docket No.:  
PHLV0736-036

For: Shrinking Net and System

Mail Stop Petition  
Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

### Petition to Withdraw Holding of Abandonment

Dear Examiner:

Responsive to the Notice of Abandonment of 12/17/2003, the Applicant respectfully requests that the Examiner withdraw the holding of abandonment based on the following:

#### REMARKS

On 12/17/2003, a Notice of Abandonment was mailed and indicated that no reply to the Office Action of 5/6/2003 had been received by the USPTO. However, Applicant did respond to the Office Action of 5/6/2003 within the six-month statutory time limit. As evidence of the timely submission of the response to the Office Action, Applicant provides a copy of the postcard with the USPTO mailroom stamp, a copy of the Office Action response, and a copy of the signed Certificate of Mailing attached to the Office Action response.

#### *Conclusion*


For the reasons stated above, Applicant respectfully requests that the Examiner withdraw the holding of abandonment and reinstate the application for examination.

In re Application of: Rexroad,  
Application No.: 09/193,989  
Atty. Docket No.: PHILV0736-036

Art. No.: 1771  
Examiner: L. Salvatore

Respectfully submitted,

Date: 1/5/04

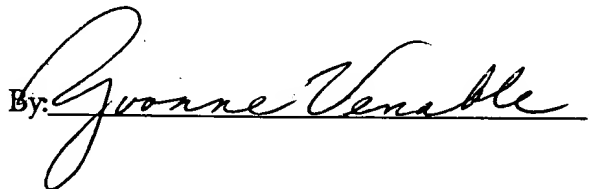
  
Lance C. Venable, Reg. No. 41,362  
Ellis & Venable  
Attorneys for Applicant  
101 North First Avenue, Suite 1875  
Phoenix, Arizona 85003  
(602) 631-9100

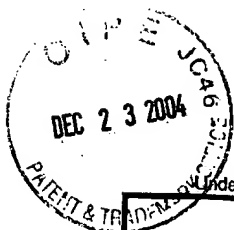
CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage paid, in an envelope addressed to:

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

on 1/5/04

By: 



PTO/SB/21 (05-03)

Approved for use through 04/30/2003. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**TRANSMITTAL  
FORM***(to be used for all correspondence after initial filing)*

<b>Application Number</b>	09/193989		
	<b>Filing Date</b>	Nov 18, 1998	
	<b>First Named Inventor</b>	Rexroad, John	
	<b>Art Unit</b>	1771	
	<b>Examiner Name</b>	Ula Ruddock	
<b>Total Number of Pages in This Submission</b>		<b>Attorney Docket Number</b>	736-036

**ENCLOSURES** *(check all that apply)*

- |  |  |  |
|--|--|--|
| <input checked="" type="checkbox"/> Fee Transmittal Form<br><input checked="" type="checkbox"/> Fee Attached<br><input checked="" type="checkbox"/> Amendment / Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input checked="" type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Response to Missing Parts/<br>Incomplete Application<br><input type="checkbox"/> Response to Missing Parts<br>under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a<br>Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation<br>Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____ | <input type="checkbox"/> After Allowance communication to<br>Group<br><input type="checkbox"/> Appeal Communication to Board of<br>Appeals and Interferences<br><input type="checkbox"/> Appeal Communication to Group<br>(Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input type="checkbox"/> Other Enclosure(s) (please<br>identify below): |
|--|--|--|

Remarks

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

<b>Firm or Individual name</b>	Ellis & Venable, P.C.
<b>Signature</b>	
<b>Date</b>	October 31, 2003

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

<b>Type or printed</b>	Lance C. Venable		
<b>Signature</b>		<b>Date</b>	October 31, 2003 11/03/2003

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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DEC 23 2004

PTO/SB/22 (08-03)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)**

Docket Number (Optional) 736-036

In re Application of **Rexroad**

Application Number **09/193989**

Filed **11/18/1998**

For **Shrink-Net and System**

Art Unit **1771**

Examiner **Ula Ruddock**

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and appropriate non-small-entity fee are as follows (check time period desired):

- ☐ One month (37 CFR 1.17(a)(1)) \$ 110.00
- ☐ Two months (37 CFR 1.17(a)(2)) \$ 420.00
- ☒ Three months (37 CFR 1.17(a)(3)) \$ 950.00
- ☐ Four months (37 CFR 1.17(a)(4)) \$ 1,480.00
- ☐ Five months (37 CFR 1.17(a)(5)) \$ 2,010.00

☒ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee amount shown above is reduced by one-half, and the resulting fee is: **\$475.**

☒ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 502085.

I have enclosed a duplicate copy of this sheet.

I am the ☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71.  
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).

☒ attorney or agent of record. Registration Number **41,361**

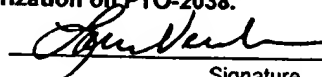
☐ attorney or agent under 37 CFR 1.34(a).

Registration number if acting under 37 CFR 1.34(a) \_\_\_\_\_

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

10/31/03

Date



Signature

602-631-9100

Telephone Number

Lance C. Venable

Typed or printed name

**NOTE:** Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☒ Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Approved for use through 07/31/2006. OMB 0651-0032  
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

# FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☒ Applicant Claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 475

## Complete if Known

Application Number 09/193989  
Filing Date 11/18/1998  
First Named Inventor Rexroad  
Examiner Name Ula Ruddock  
Art Unit 1771  
Attorney Docket No. 736-036

## METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account

Deposit Account Number 502085

Deposit Account Name Ellis & Venable, P.C.

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$) 0

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims		Extra Claims		Fee from below	Fee Paid
Independent	Dependent	-20**	-3**		
				X	
				X	

Multiple Dependent

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1202	18	2202	9	Claims in excess of 20	
1201	86	2201	43	Independent claims in excess of 3	
1203	290	2203	145	Multiple dependent claim, if not paid	
1204	86	2204	43	**Reissue independent claims over original patent	
1205	18	2205	9	**Reissue claims in excess of 20 and over original patent	

SUBTOTAL (2) (\$) 0

\*\* or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	\$475
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1808	180	1808	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 475

## SUBMITTED BY

Name (Print/Type) Lance C. Venable

Signature

Registration No. (Attorney/Agent) 41362

## Complete (if applicable)

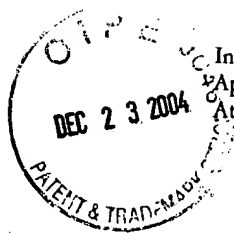
Telephone 602-631-9100

Date 10/31/03

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This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



In re Application of: Rexroad, John  
Application No.: 09/193,989  
Atty. Docket No.: PHLV0736-036

Art Group: 1771  
Examiner: U. Ruddock

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Rexroad, John  
Serial No.: 09/193,989  
Filed: 11/18/1998

Art Group: 1771  
Examiner: Ula Ruddock  
Atty. Docket No.:  
PHLV0736-036

For: Shrinking Net and System

Mail Stop Non-Fee Amendment  
Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

### Response to Office Action Dated 05/06/2003

Dear Examiner:

Responsive to the Office Action dated 05/06/2003, kindly amend the subject application as follows:

### REMARKS

#### *Claim Status*

Claims 1-12 are pending in the Application. The Examiner has rejected claims 1-5 and objected to claims 6-12.

#### *Claim Rejections - 35 U.S.C. § 102*

The Examiner rejected the applicant's claims under 35 U.S.C. §102(b) which states, "A person shall be entitled to a patent unless. . . (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States." For a claim to be rejected under this statute, it must be anticipated by the prior art. Anticipation occurs when every element of the claimed invention is met. *See, Helifix Ltd. v. Blok-Lok Ltd.*, 208 F.3d 1339 (Fed. Cir. 2000) (stating, "[t]o be anticipating, a prior art reference must disclose 'each and every limitation of the claimed invention[.] . . . must be enabling[.] and must describe . . . [the] claimed invention sufficiently to have placed it in possession of a

person of ordinary skill in the field of the invention"). In this case, not every element of the applicant's claimed invention is met in the prior art.

Rexroad et al., U.S. Patent No. 5,582,266

The Examiner rejected claims 1-5 under 35 U.S.C. §102(b) based upon U.S. Patent No. 5,582,266 issued to Rexroad et al. ("Rexroad '266"). The Examiner indicated that Rexroad '266 discloses a safety and debris net system, yarn that is dipped in a solution which causes shrinkage (Column 1, lines 20-27), a netting system with sag control measure (Column 1, lines 20-27), a plurality of fasteners (Column 2, line 40), and a frame surrounding the net (Fig. 3). The Applicant respectfully disagrees with the Examiner's position.

The Applicant has claimed a net system that is capable of being made taut around a frame due to a shrinkable net fiber that has a reduced length when it is wetted and dried with water. In order for the net system to achieve and maintain the desired tautness, its design includes a rigid frame (5), a net (2) that is made of water soluble yarn capable of high shrinkage rates when wetted and dried, and a device that provides tension to the net, such as eyebolts (12), a tensioning bar (22), or a locating cable (30). In Applicant's claimed invention, the net (2) is attached to the rigid frame (5), and eyebolts (12), a tensioning bar (22), or a locating cable (30) provide the net (2) with tension so that it stays taut between the rigid frame (5). The eyebolts (12) are placed around the perimeter of the rigid frame (5) and hold the net (2) securely in place by providing tension to the net (2) in opposite directions. Additionally, a tensioning bar (22) or locating cable (30) woven within the weave of the net (2) can reduce the number of eyebolts (12) necessary to support the net (2) while still providing the necessary tension. Moreover, the net (2) in Applicant's invention is made of a water soluble shrinkable yarn which reacts to wetting by reduction in length up to a point where strain is imposed on the yarn by an outside force.

Further, Applicant's net (2) made of water soluble yarn capable of high shrinkage rates when wetted and dried is installed on the rigid frame (5) prior to shrinkage. At this point in the assembly, there is slack between the net (2) and the rigid frame (5). Water is subsequently added, and the net (2) shrinks to the point where it is taut between the rigid frame (5). This configuration allows the frame to be assembled with the net (2) attached to

it because there is sufficient slack in the net (2) that is later taken out with the shrinkage step. This aspect of the invention is unique in that the net (2) has no residual slack in it due to the assembly of the rigid frame (5).

In contrast, Rexroad '266 does not disclose a net system similar to Applicant's invention. The frame (Fig. 3) pointed out by the Examiner is not a rigid frame like in Applicant's invention. Rather, Rexroad '266 discloses a border (43, 43', 41, and 41'). The border (43, 43', 41, and 41') is merely the boundary to which the safety net (10) is attached. Moreover, as shown in Fig. 1 of Rexroad '266, the safety net (10) boundary is attached to a structure and a post (6) instead of to a rigid frame.

Further, the yarn described in Rexroad '266 is not the same as that described in Applicant's invention. The yarn described in Rexroad '266 is nylon which is dipped in a chemical solution that induces shrinkage. (Column 1, lines 20-27 and 35-38). Moreover, the yarn described in Rexroad '266 is not water soluble and does not exhibit the shrinkage properties listed in Tables A and B on pages 7-10 of Applicant's invention. In contrast, the shrinkage of the water soluble yarn in Applicant's invention is necessary for the net system to properly function. (Applicant's Claim 1). In order for Applicant's net system to achieve the desired tautness, the frame must be assembled while attached to the net. This can only happen when there is adequate slack in the net. However, the slack is undesirable once the net system is put into place. To take out the extra slack in the net, water is applied to the net made of water soluble shrinkable yarn. The addition of water causes the net to shrink and become taut around the frame. (Applicant's Specification p. 6, lines 10-18 and p. 10, lines 9-13).

Additionally, the shrinkage due to the dipping in the chemical solution is described as an undesired result in Rexroad '266. (Column 2, lines 8-15). Rexroad '266 actually claims an improved net system where the yarn is not chemically treated so as to better control the shrinkage of the safety and debris net system. (Column 2, lines 24-28).

In addition, the sag control measure (Column 1, lines 20-27) described in Rexroad '266 is not similar to that of Applicant's invention. As discussed above, Applicant's net system employs yarn that is capable of high shrinkage rates when wetted and dried with

water and includes eyebolts, a tensioning bar, or a locating cable to prevent sag. Once water is applied to the net system of Applicant's invention, all of the slack is removed, and it will not subsequently sag. (Applicant's Specification p. 2, lines 24-27). It is an object of Applicant's invention to provide a net system where there will be no sagging of the net after it is installed on the frame. (Applicant's Specification p. 1, lines 22-27). In contrast, the sag control measure discussed in Rexroad '266 is implemented at the site where the net is located to prevent subsequent sagging of the net after installation. (Rexroad '266 Column 1, lines 24-27).

Additionally, the C-ring fasteners (9) described in Rexroad '266 are not similar to the adjustable bolts claimed in Applicant's invention. The adjustable bolts in Applicant's invention attach the border of the net to the frame and provide the necessary tension to the net. Further, the adjustable bolts described in Applicant's specification are eyebolts. In contrast, the use of C-ring fasteners in Applicant's present invention would not provide the net system with the required support. The C-ring fasteners (9) in Rexroad '266 are merely used to attach the net to the border. They do not provide tension and do not connect the net to a frame. The C-ring fasteners in Rexroad '266 cannot be equated to the adjustable bolts claimed in Applicant's invention.

Moreover, Rexroad '266 does not disclose a system comprised of weft and warp members that intersect with each other at intersections or nodes. (Applicant's Claim 2). The nodes become locked when the yarn is wetted and dried giving the net system its strength. (Applicant's Specification p. 11, lines 28-33 and p. 12, lines 1-4). This aspect of Applicant's invention is not disclosed or claimed in Rexroad '266. Therefore, not every element of Applicant's invention is disclosed in Rexroad '266 meaning it is not anticipated by Rexroad '266.

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### *Claim Objections*

The Examiner has objected to claims 6-12 as being dependent upon a rejected base claim. Applicant respectfully disagrees. As discussed above, claims 1-5 should be allowable because Rexroad '266 does not anticipate the claims. Accordingly, claims 6-12 should also be allowable in dependent form.

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*Conclusion*

Applicant believes it has addressed and responded to every point raised in the Examiner's action. For the reasons stated above, Applicant respectfully requests reconsideration of its application.

Date: 10/31/03

Respectfully submitted,



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Filing Date: 11/18/1998  
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Non-Provisional Patent Application

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